

REMARKS

Reconsideration of this application, as amended, is requested.

Claims 1 and 4-11 remain in the application. Independent claim 1 has been amended to define the invention more clearly. New claim 11 has been added.

The office action of August 18, 2009 began with a very helpful Response to Arguments section that addressed the issues discussed in the June 5, 2009 Amendment. The Examiner explained that the amendments that were entered on June 5, 2009 and the arguments that accompanied those amendments relate to the function of the claimed article and not to the structure. The Examiner also stated that the previous amendments that defined the back region and the abdominal region as being "independently-made" related to the process of making the article, and not to the structure of the article.

Claim 1 has been amended significantly in response to the very helpful comments in the Response to Arguments section of the office action. It is believed that amended independent claim 1 now defines the disposable wearing article in structural terms that distinguish over the applied art for the reasons explained further below.

Claims 1 and 4-10 were rejected under 35 USC 103(a) as being obvious over Reising et al. (US 4,681,580). The Examiner stated that the disposable wearing article of Reising et al. has a back region and an abdominal region. The Examiner noted that the back region and the abdominal region of Reising et al. appear to be of substantially equal lengths in the waist direction. The Examiner also concluded that the Reising et al. reference teaches that the stretchable waist can be present in either the back region, the abdominal region or both. The office action stated that this conclusion is supported by the portion of Reising et al., col. 6, lines 31-41. As a result, the

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At the outset, the referenced portion of Reising et al. should be reconsidered. The Reising et al. disclosure explains that in the preferred embodiment, “reference will be made to waistshield/waistbands 18 in both front waist portion 33 and rear waist portion 32 on disposable diaper 10.” The Reising et al. disclosure proceeds to explain that while the preferred construction provides the waistshield/waistband 18 in both the front and rear waist portions, it is possible that the waistshield/waistband 18 is present on only one of the front and rear waist portions. The Reising et al. disclosure proceeds to explain that if only one waistshield/waistband is present, it preferably is in the front waist portion 33. Hence, the Reising et al. teaching is contrary to the claimed invention in that the Reising et al. disclosure guides the skilled artisan toward either equal extensibility on the front and rear waist portions or greater extensibility on the front waist portion. In contrast, the claimed invention provides greater extensibility along the back region than along the abdominal region.

In the case where the abdominal region has higher extensibility than the back region, when a carer puts a wearing article (hereinafter, called a diaper) on the wearer, the carer has to pull the abdominal region of the diaper in the waist direction, while holding both ends of the abdominal region, and also has to turn the stopper members on the back region toward the abdominal region. Thus, the carer has to move both of the abdominal region and the back region (the stopper members) in the waist direction, and the carer has difficulty in putting the diaper on the wearer.

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In the case where the abdominal region has higher extensibility than the back region, when a carer puts a wearing article (hereinafter, called a diaper) on the wearer, the carer has to pull the abdominal region of the diaper in the waist direction, while holding both ends of the abdominal region, and also has to turn the stopper members on the back region toward the abdominal region. Thus, the carer has to move

both of the abdominal region and the back region (the stopper members) in the waist direction, and the carer has difficulty in putting the diaper on the wearer.

On the other hand, in the claimed invention, the back region having the stopper member has higher extensibility than the abdominal region. Accordingly, a carer is only required to pull the back region toward the abdominal region in the waist direction, while holding both ends of the back region. Thus, the carer can easily put the diaper on the wearer, without the need of pulling the abdominal region in the waist direction. In this regard, it is easier to extend the back region because the weight of the wearer helps to position the back region. The abdominal region is not positioned by the weight of the wearer, and hence extending the abdominal region is less convenient, particularly when the stopper members on the back region also must be manipulated, as in Reising et al.

As described above, the fitting property is significantly improved by setting the extensibility of the back region having the stopper members higher than the extensibility of the abdominal region. A person skilled in the art could not easily come up with the structure of amended claim 1 based on the description of Reising that “when only one waistshield/waistband 18 is present in disposable diaper 10, it is preferably is in front waist portion 33” (column 6, lines 39-41).

The Examiner's conclusions regarding the equal lengths of the front and back regions of Reising et al. in the waist direction is drawn from the FIG. 1 illustration of the Reising et al. disposable diaper. However, FIG. 1 shows the front and back waist regions in a smooth condition along the waist direction. Hence, FIG. 1 shows the Reising et al. disposable diaper in the stretched condition. In this stretched condition,

the front and rear sections have approximately equal lengths in the waist direction. As noted above, the Reising et al. disclosure leads the skilled artisan away from a design where the rear region is extensible and the front region is not extensible in the waist direction. However, even if the skilled artisan were to reconfigure Reising et al. so that only the rear waist section exhibited extensibility in the waist direction, that does not necessarily mean that the maximum extension of the rear waist section in the waist direction would exceed the length of the abdominal section in the waist direction. For example, the rear waist section could have the maximum stretched length shown in FIG. 1 of Reising et al. and the non-extendable front waist section also could have the length shown in FIG. 1. As a result, the rejection requires the skilled artisan to adopt the disfavored Reising et al. construction where the rear waist section is extensible and the front waist section is not, and then further requires the skilled artisan to reconfigure this disfavored option of Reising et al. with dimensions that are not suggested by Reising et al. It is submitted with due respect that this redesign of Reising et al. would be undertaken only with hindsight based on the disclosure of the subject application.

As noted above, the previously presented claims had defined the back region and the abdominal region as being independently made. The Examiner correctly noted that the applicant was attempting to incorporate manufacturing process limitations into a product claim. The amended claims address the Examiner's comments. In particular, amended claim 1 defines the abdominal region as being independent of and spaced apart from the back region. Additionally, the disposable wearing article of amended claim 1 includes "an absorber that bridges between and connects the spaced apart back region and the abdominal region." This independence of the abdominal

region and back region enables the higher extensibility of the back region. In contrast, the back region and the front region of Reising et al. are made by single top sheets 12 and single back sheets 16. Thus, the front and back regions of Reising et al. are formed uniformly and are not independent of one another and spaced apart from one another, as set forth in the currently amended claims. The Reising et al. reference does not suggest an abdominal region that is independent of and spaced apart from the back region and with the stretched second length of the back region in the waist direction being longer than a maximum length of the abdominal region that can be achieved in the waist direction.

With respect to new claim 11, this amendment includes an annotated copy of FIG. 1 of Reising et al. The Examiner will note that the waistshield/waistband 18 is provided between the topsheet 12 and the backsheet 16 on the rear portion 30, and the adhesive fastening tapes 38 (corresponding to the stopper members of the claimed invention) are fixed to both ends of the topsheet 12 and the backsheet 16 in the waist direction, and protrude outwardly from the both ends. In this arrangement, the inner area of the back region with respect to the stopper members is extensible, but the stopper members 38 at both ends of the back region are not extensible.

Accordingly, when the carer pulls the back region of the diaper disclosed in Reising to put the diaper on the wearer, the carer has to pull both ends of the topsheet and the backsheet located at positions inwardly from the stopper members 38 in the waist direction, in place of pulling both ends of the back region. The carer also has to fasten the stopper members 38 at the outer extremes of the back region to the abdominal region, while holding and pulling the topsheet and the backsheet at positions

inwardly of the stopper members 38. This is a cumbersome operation for the carer. It is possible to pull the topsheet and the backsheet in the waist direction, while holding the stopper members. However, in this case, the stopper members are deformed independently of the waistshield/waistband 18. Therefore, the carer has to pull the stopper members with a larger force, which is also a cumbersome operation for the carer.

In contrast, new claim 11 recites the arrangement that the stopper members are provided at an inner position with respect to the both ends of the back region in the waist direction, and the back region has the extensibility over the entirety of the both ends in the waist direction.

With the arrangement of new claim 11, when the carer puts the wearing article defined in new claim 11 on the wearer, the carer can pull the back region in the waist direction with a smaller force, as compared with a case of pulling the stopper members in the reference, by holding and pulling the both ends of the back region provided with the stopper members. Further, the carer can easily put the wearing article on the wearer by simply holding and fastening the stopper members onto the abdominal region. Thus, the claim 11 arrangement improves the fitting property in the waist direction, because the entirety of the back region including the stopper members is extensible in the waist direction.

In view of the preceding amendments and remarks, it is submitted respectfully that the amended claims are directed to patentable subject matter and

allowance is solicited. The Examiner is urged to contact applicant's at the number below to expedite the prosecution of this application.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gerald E. Hespos".

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Exhibit

Fig.1 in Reising et al.

